

2.12.09
#022

Late Backup

CITY OF AUSTIN
February 12, 2009
Signature Pages

| | |
|-------------------|------------------|
| Will Wynn | “Sign Here” Flag |
| Marc Ott | Orange Flag |
| Shirley Gentry | Green Flag |
| Leslie Browder | Blue Flag |
| David Allan Smith | Purple Flag |

Please return executed signature pages to V&E by Friday, February 13th

I. DELIVERY OF ALTERNATE LETTER OF CREDIT

1. General and No-Litigation Certificate *[Wynn/Ott/Gentry/Browder]* ****Notarize****
2. Certificate for Ordinance *[Gentry]*
3. Ordinance *[Wynn/Gentry/Smith]*
4. Letter Agreement *[Ott]*
5. - Letter of Credit and Reimbursement Agreement *[Ott]*
6. Letter of Instructions to Attorney General’s Office *[Ott]*

****PLEASE DO NOT DATE ANY DOCUMENTS (EXCEPT FOR NOTARY)****



MEMORANDUM

TO: Marc A. Ott, City Manager

FROM: Leela Fireside, Law Department

DATE: February 13, 2009

SUBJECT: Letter of Credit Reimbursement Agreement between State Street Bank and City of Austin

The attached Letter of Credit Reimbursement Agreement between City of Austin and State Street Bank (Agreement) and the related documents enable the City to replace an expiring agreement with a new agreement. The original agreement expires February 23, 2009. This transaction must be reviewed and approved by the Attorney General's Office before it can be concluded. Thus, it is very important that we complete signatures on these documents today. In preparation for Council's action on this item yesterday, I reviewed each of the documents (which have also been reviewed by outside bond counsel, Glenn Opel of the law firm Vinson & Elkins). It is my opinion that the documents are legally sufficient and it is appropriate for you to sign them. I am therefore providing originals of the Agreement, plus related documents, for your signature.

On February 12, 2009, Council adopted Ordinance 20090212-022 and approved this Agreement and related documents. On February 5, 1998, Council authorized the issuance of \$28,000,000 City of Austin, Texas, Airport System Variable Rate Revenue Notes, Series A, to complete certain projects at the airport, such as the central plant and telecommunications infrastructure and equipment. The City entered into a Letter of Credit and Reimbursement Agreement with JPMorgan Chase Bank at the time the notes were issued. On February 6, 2003, and on February 16, 2006, Council authorized three-year extensions to the original Agreement. The final extension expires on February 23, 2009. The City's Financial Advisor, Public Financial Management, recently solicited bids for a replacement Agreement. The lowest bid was submitted by State Street Bank. The 3-year term of the Agreement will extend to February 23, 2012 and the fee will be 175 basis points.

The Agreement is approved as to form and content.

Leela R. Fireside
Assistant City Attorney
Law Department

CERTIFICATE OF CITY CLERK

**THE STATE OF TEXAS
COUNTY OF TRAVIS**

CITY OF AUSTIN

I, the undersigned, City Clerk of the City of Austin, Texas, **DO HEREBY CERTIFY** as follows:

1. On the 12th day of February 2008, a regular meeting of the City Council of the City of Austin, Texas, was held at a meeting place within the City; the duly constituted members of the Council being as follows:

| | | |
|---------------------------|---|------------------------|
| WILL WYNN |) | MAYOR |
| BREWSTER MCCRACKEN |) | MAYOR PRO TEM |
| LEE LEFFINGWELL |) | COUNCIL MEMBERS |
| MIKE MARTINEZ |) | |
| RANDI SHADE |) | |
| LAURA MORRISON |) | |
| SHERYL COLE |) | |

all of these persons were present at this meeting. Among other business considered at this meeting, the attached ordinance numbered and entitled:

ORDINANCE NO. 20090212-022

AN ORDINANCE AUTHORIZING THE DELIVERY OF AN ALTERNATE LETTER OF CREDIT FOR THE CITY'S AIRPORT SYSTEM VARIABLE RATE REVENUE NOTES, SERIES A; AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS.

was introduced and submitted to the Council for passage and adoption. After presentation and due consideration of the ordinance, and upon a motion being made by Councilmember _____ and seconded by Councilmember _____, the ordinance was finally passed and adopted by the Council to be effective immediately in accordance with the provisions of V.T.C.A., Government Code, Section 1201.028 by the following vote:

all as shown in the official Minutes of the Council for the meeting held on June 18, 2008.

The attached ordinance is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the City Council of the City on the date of the meeting are those persons shown above and, according to the records of my office, advance notice of the time, place and purpose of the meeting was given to each member of the Council; and that this meeting, and the deliberation of the aforesaid public business, was open to the public and written notice of this meeting, including the subject of the above entitled ordinance, was posted and given in advance in compliance with the provisions of V.T.C.A, Government Code, Chapter 551.

IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of this City, this the _____ day of _____, 2009.


SHIRLEY A. GENTRY
City Clerk, City of Austin, Texas



ORDINANCE NO. 20090212-022

AN ORDINANCE AUTHORIZING THE DELIVERY OF AN ALTERNATE LETTER OF CREDIT FOR THE CITY'S AIRPORT SYSTEM VARIABLE RATE REVENUE NOTES, SERIES A; AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS:

(A) Pursuant to Ordinance No. 98-0205-A (Authorizing Ordinance), the City, issued and has outstanding its Airport System Variable Rate Revenue Notes, Series A (Series A Notes) in the principal amount of \$28,000,000.

(B) The Authorizing Ordinance contains certain capitalized terms that are also used in this Ordinance. Unless otherwise defined, those terms have the same meaning in this Ordinance as they do in the Authorizing Ordinance.

(C) In connection with the issuance of the Series A Notes, Morgan Guaranty Trust Company of New York (now JPMorgan Chase Bank, National Association) issued and delivered its Irrevocable Letter of Credit No. S-858507 (Original Letter of Credit) and the City and Morgan Guaranty Trust Company of New York (now JPMorgan Chase Bank, National Association) entered into a Letter of Credit and Reimbursement Agreement, dated February 5, 1998 (Original Reimbursement Agreement).

(D) The Original Letter of Credit expires on February 23, 2009 (Expiration Date), and Council finds it necessary to cause an alternate letter of credit (Alternate Letter of Credit) to be delivered for the Series A Notes by State Street Bank and Trust Company (Bank) in accordance with the Authorizing Ordinance.

(E) In connection with the delivery of the Alternate Letter of Credit, the City Council finds it necessary to (1) authorize the execution and delivery of (a) a Letter of Credit and Reimbursement Agreement between the City and the Bank (Reimbursement Agreement), (b) a Letter Agreement between the City and the Bank (Letter Agreement) and (c) a Custody Agreement among the City, the Bank and The Bank of New York Mellon Trust Company, N.A., as Paying

Agent/Registrar (Custody Agreement), and (2) approve and authorize the use of a Remarketing Memorandum for the remarketing of the Series A Notes.

(F) The Authorizing Ordinance requires the mandatory tender for purchase of the Series A Notes upon the expiration and replacement of the Original Letter of Credit, on the fifth day preceding the Expiration Date.

(G) The Paying Agent/Registrar has provided notice of the mandatory tender to the Owners of the Series A Notes.

(H) The City is authorized to cause the delivery of the Alternate Letter of Credit and to authorize, execute, and deliver the Reimbursement Agreement pursuant to Chapter 1371, Texas Government Code.

PART 2. AUTHORIZATION

(A) The City Council authorizes the delivery of the Alternate Letter of Credit in substantially the form attached to the Reimbursement Agreement. The Mayor, City Manager, the Aviation Director, the Chief Financial Officer, the City Clerk, and all other officers of the City are authorized and directed to take all actions necessary or desirable to cause the delivery of the Alternate Letter of Credit in accordance with the Authorizing Ordinance and this Ordinance.

(B) The City Council authorizes negotiation, execution, and delivery of (1) the Reimbursement Agreement, dated as of February 1, 2009, between the City and the Bank, in substantially the form attached as Exhibit A, (2) the Letter Agreement, dated as of February 1, 2009, between the City and the Bank, in substantially the form attached as Exhibit B, and (3) the Custody Agreement, dated as of February 1, 2009, among the City, the Bank and the Paying Agent/Registrar, in substantially the form attached as Exhibit C. The City Manager or, in his absence, any Assistant City Manager is authorized to negotiate, execute, and deliver the Reimbursement Agreement, the Letter Agreement and the Custody Agreement, with such changes as may be approved by the City Manager, or such other Assistant City Manager. The execution of the Reimbursement Agreement, the Letter Agreement and the Custody Agreement is conclusive evidence the City approved each of these documents.

(C) The City Council authorizes, ratifies, and approves the preparation, distribution, and use of the Remarketing Memorandum (in substantially the form attached as Exhibit D). To the extent required, the Remarketing Memorandum is "final" as of its date for purposes of compliance with Rule 15c2-12 of the Securities and Exchange Commission.

(D) The Paying Agent/Registrar and the Tender Agent are authorized and directed to take all actions and give all notices as may be necessary or appropriate to effect the mandatory tender of the Series A Notes and the delivery of the Alternate Letter of Credit, and the City ratifies and approves all prior actions taken by the Paying Agent/Registrar and the Tender Agent relating to the giving of notice of the mandatory tender of the Series A Notes and the delivery of the Alternate Letter of Credit.

PART 3. FURTHER PROCEDURES. The Mayor, the City Manager, the Aviation Director, the Chief Financial Officer, the City Clerk and all other officers of the City are authorized and directed to do any and all things necessary or appropriate to carry out the terms of this Ordinance.

PART 4. SEVERABILITY. If any part, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of such part, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

PART 5. OPEN MEETING. The City posted sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted at a place convenient and readily accessible at all times to the general public at the Austin City Hall for the time required by the Open Meetings Act, Chapter 551, Texas Government Code. This meeting was open to the public as required by law at all times during which this Ordinance and its the subject matter were discussed, considered and formally acted upon. The City Council ratifies, approves and confirms such written notice and the contents and its posting.

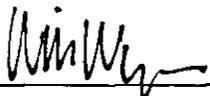
PART 6. EFFECTIVE IMMEDIATELY. Notwithstanding the provisions of the City Charter, this Ordinance shall become effective immediately upon its adoption at this meeting pursuant to Section 1201.028, Texas Government Code.

PART 7. REPEALER. All orders, resolutions and ordinances, or their parts that are inconsistent with this Ordinance are repealed only to the extent needed to eliminate the inconsistency.

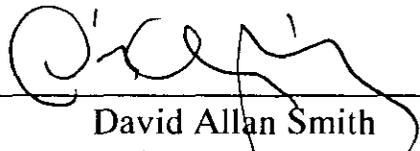
[Execution Page Follows]

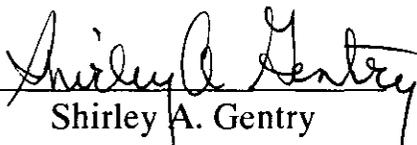
PASSED AND APPROVED

February 12, 2009

§ 
Will Wynn
Mayor

APPROVED:


David Allan Smith
City Attorney

ATTEST: 
Shirley A. Gentry
City Clerk

